

MEETING MINUTES, BOARD OF ZONING APPEALS, NOVEMBER 12, 2007

Present: Phil Tinkle, Mike Campbell, Shan Rutherford, Ken Knartzer, Shawna Koons-Davis, City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

October 22nd – Rutherford moved to approve the minutes as mailed, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

FINDINGS OF FACT

Docket V2007-022 – Dimensional Variance – Sutton Park Shoppes – Knartzer moved in consideration of the statutory criteria that the Board adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-022, seconded by Campbell. Vote for approval was unanimous, 4-0. Motion carried.

Docket V2007-023 – Special Exception – Sikh Temple – Rutherford moved in consideration of the statutory criteria that the Board adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-023, seconded by Knartzer. Vote for approval was unanimous, 4-0. Motion carried.

Docket V2007-024 – Dimensional Variance – Clark-Pleasant School – Campbell moved in consideration of the statutory criteria that the Board adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-024, seconded by Rutherford. Vote for approval was unanimous, 4-0. Motion carried.

Docket V2007-025 – Dimensional Variance – Charter Crossing – Knartzer moved in consideration of the statutory criteria that the Board adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-025, seconded by Campbell. Vote for approval was unanimous, 4-0. Motion carried.

OLD BUSINESS

Docket V2007-016 – Use Variance – Challenger Newspapers – located at 400 E. Main St. – request to allow newspaper business office (with free-standing ground sign) in R-2 Residential zone – Doug & Kelly Chambers, Owners; Joe Van Valer, Attorney; representing.

Joe Van Valer, Van Valer Law Firm; and Doug & Kelly Chambers, Owners; came forward and were sworn.

The variance request is to allow a newspaper office to be located in a single-family house that is zoned R-2 Residential. Only one employee, Mr. Chambers, will work there, with Mrs. Chambers helping out occasionally. There will be no structural changes to the dwelling. Approximately 200 sq. ft. of the 800 sq. ft. of the dwelling will be used for the business. The variance request also includes the request for a 4' x 4' identification sign. Photos of the subject property were presented for the Board's review.

Statutory Criteria for Use Variance (newspaper office) was addressed as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** Will be an office environment with minimal traffic. There will be the owner and 1 employee on site on a regular basis. Will be consistent with the character of the area.

2. **Criteria:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. **Answer:** Parcels to east and south are currently retail establishments. Parcel to the west is vacant and is offered for sale as being ideal for a business. Parcel to the north is a residence, however, it sits across an alley and there is substantial greenspace between it and the proposed office. There are surrounding commercial uses.
3. **Criteria:** The need for the Variance arises from some condition peculiar to the property involved. **Answer:** This is a small house that sits very close to Main St. It is not very suitable, due to traffic and location, for residential use. Owners of the property have had a problem renting the property as a residence in recent years.
4. **Criteria:** The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. **Answer:** Property has been vacant for 2+ years due to its location in the midst of businesses and amount of traffic. Even as rental property it is very difficult to find occupants.
5. **Criteria:** The approval does not interfere substantially with the Comprehensive Plan. **Answer:** There are no existing residential units in use in this area. The surrounding land uses are business for a substantial distance in both directions and the only residential use is at the rear of the property which will be shielded by greenspace between the proposed office and the residence. There should be no traffic conflicts as there will be minimal traffic and any traffic will enter off of Water Street which is a little used side street.

Statutory Criteria for Dimensional Variance (free-standing 4' x 4' sign) was addressed as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The proposed location of the sign would be outside the sight lines of the eastbound traffic on Main St. and would setback the maximum permissible amount and still be visible from both traffic lanes on Main St.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The property is adjacent to the south and east by commercial uses.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** Should a use variance be approved for a commercial use, the now commercial property would need a minimal amount of identification from the Main St. frontage.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** The site is located 4,495 feet from the runway of the nearest public use airport and would have to exceed 44.95 feet in order to be regulated by that portion of Indiana Code. The sign will be approx. 7' tall.

Knartzer inquired that if only 200 sq. ft. is going to be used for the business, what will the remaining 600 sq. ft. of the house be used for. Van Valer replied that the Chambers will be moving into the house with the intent of selling their current residence and eventually purchasing another residence to move into. Their intention is not to remain in this location for an extended period of time. Future plans include buying an office building to move the newspaper office into.

Rutherford recused himself from consideration of this docket at this time due to conflict of interest.

Tinkle inquired about landscape buffering and parking area. He questioned whether the lot is large enough to meet site plan requirements. Van Valer replied that they are looking into those items. Site development plan approval will be required.

Campbell moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Knartzer. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Newspaper office request:

Knartzer moved that based on the evidence presented that the Board approve the granting of a use variance to allow a newspaper business office to be located at 400 E. Main St. in an R-2 Residential Zone , with the following conditions

- 1) Prior to occupancy, conversion of the site for non-residential uses shall comply with the requirements of Section 10-104 of the Zoning Ordinance.

Seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Free-standing ground sign request:

Knartzer moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow a free-standing sign at the newspaper business office to be located at 400 E. Main St. in an R-2 Residential Zone , with the following conditions

- 1) Prior to occupancy, conversion of the site for non-residential uses shall comply with the requirements of Section 10-104 of the Zoning Ordinance.

Seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Knartzer moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decisions regarding Variance Petition Number V2007-016, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Rutherford resumed his position with the Board.

NEW BUSINESS

Docket V2007-026 – Special Exception – Clark Pleasant Community School Corp. – Request to allow construction of a middle school in an R-2 Residential zone located at approximately 1300 E. Worthsville Rd. – Clark-Pleasant Community School Corp., applicant.

Joe Calderon, Attorney, came forward and was sworn. A new middle school is proposed for this site. It will be located immediately adjacent to an intermediate school site.

The Statutory Criteria was addressed as follows:

1. **Criteria:** Appropriate screening and buffering of the site, including refuse and other service areas, is provided to ensure that the use will be compatible with neighboring properties and will be present acceptable views from public ways. **Answer:** The screening and buffering of the property from adjacent properties will conform to the requirements of the City of Greenwood. Loading docks and trash dumpsters will be located on the north side of the building and will be screened by the building and a masonry wall. The closest residential area is approximately 1800' to the north.

2. **Criteria:** Ingress and egress to the site and to structures is safe and adequate, and on-site circulation is also safe and adequate. The Board of Zoning Appeals may receive recommendations regarding ingress and egress and site circulation from the City Engineer and the Fire Chief. The Board of Zoning Appeals may also request that the applicant provide a traffic impact analysis. **Answer:** There will be two curb cuts on Worthsville Road, with the east cut reserved as an exit only for bus traffic and special event traffic. The western most cut would be full access. There will be a separate internal drive for parent drop off and visitors during special events.
3. **Criteria:** Satisfactory parking and loading facilities is provided. **Answer:** Parking would be provided for 40 buses and 519 automobiles. The loading dock would accommodate one truck.
4. **Criteria:** Adequate utility services and related facilities are available. The Board of Zoning Appeals may require written evidence of this availability from utility authorities. **Answer:** All necessary utilities are available on the site in association with the existing intermediate school.
5. **Criteria:** Adequate yards and open space are provided. **Answer:** The setback from Worthsville is approximately 300 feet and the side yard setbacks are approximately 500 feet which exceed the Ordinance requirements by a large margin. There would be approximately 98% open space which would consist of the proposed athletic fields and other currently undeveloped property.
6. **Criteria:** The proposed use does not generate environmental impacts which may threaten public health and safety, including, but not limited to, negative impacts to air quality (such as odor, smoke or air pollution), increased flooding due to filling of the floodplain, or a loss of wetlands. **Answer:** The proposed site would be developed as a public school and the site would be engineered to ensure proper drainage in accordance with the requirements of Greenwood ordinances.
7. **Criteria:** Compatibility with surrounding uses. The proposed Special Exception shall not cause a loss of use or enjoyment of adjacent properties. **Answer:** There is an existing school to the west and public roads to the east and south. There is residential development near the property; however, school uses are historically considered compatible with these residential uses.
8. **Criteria:** The design of the structures is in harmony with the surrounding area, in both style and scale. **Answer:** There is an existing school to the west of this property. The construction of this school would be consistent with the existing school in both scale and architecture.
9. **Criteria:** The petition is not in conflict with the Comprehensive Plan. **Answer:** The Comprehensive Plan proposes medium to low density residential uses. While this use is not entirely consistent with that recommendation, school and church uses are considered compatible with residential development.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Knartzner. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford moved that based on the evidence presented that the Board approve the granting of a special exception to Clark Pleasant Community School Corp. for construction of a new middle school to be located on East Worthsville Rd., seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Special Exception Petition Number V2007-026, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2007-027 – Dimensional (Sign) Variance – LA Fitness – Request to allow second wall sign measuring 200 sq. ft. for building located at 540 N. SR 135 – Sign Craft, Inc., applicant representing.

Mike Oswald, Sign Craft, Inc., came forward and was sworn. The request is for an additional wall sign measuring 200 sq. ft. The sign will be on the south elevation of the building (along Fairview Rd.)

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request would provide for a wall sign on a commercial building in an area predominately commercial in nature. It will help with identification of the business.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The location of a sign on the southern façade would serve to identify the use more clearly and reduce unnecessary traffic to adjacent uses. Additionally the inclusion of tasteful signage on a commercial property does not affect adjoining properties. Similar signage is located in the same area.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** A strict application would not permit a second sign, because the site, technically, does not have frontage on Fairview Road and is not a corner lot. The site, however, is connected to Fairview Road through a dedicated easement and is highly visible from that street frontage. Allowing a sign on the southern façade would aid in visibility of the use from Fairview Road and provide symmetry to the building.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** The sign would be located on an existing building that is approximately 19,563 feet from the runway of the nearest public use airport and outside the Airspace Overlay District.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Campbell moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow a second wall sign for LA Fitness located at 540 N. SR 135, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Knartzer moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2007-027, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

Knartzer moved to adjourn, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.** Meeting was adjourned at 6:53 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman